

[*Puckett v. Comstock Engineering, Inc.*](#), 85-ERA-4 (ALJ Jan. 11, 1985)

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U.S. Department of Labor
Office of Administrative Law Judges

Case No. 85-ERA-4

In the Matter of

WORLEY O. PUCKETT
Complainant

v.

COMSTOCK ENGINEERING, INC.
Respondent

ORDER OF DISMISSAL PURSUANT TO SETTLEMENT

This proceeding arises under the Energy Reorganization Act of 1974, as amended, (42 U.S.C. § 5851, et seq.) hereinafter referred to as the Act. This legislation prohibits a Nuclear Regulatory Commission (NRC) licensee from discharging or otherwise discriminating against an employee who has engaged in activity protected under the Act. The Act is implemented by regulations designated to protect so-called "whistleblower" employees from retaliation or discriminatory actions by their employers. (29 CFR Part 24) An employee who believes that he or she has been discriminated against in violation of the Act may file a complaint within 30 days after the occurrence of the alleged violation.

On September 5, 1984, Worley O. Puckett, the Complainant in

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this case, filed a timely complaint of alleged discrimination and retaliation. (Complainant's Exhibit 35) In his prehearing exchange, the Complainant alleges that he was hired by the Respondent in May 1984 as a level three quality control inspector; that during the course of his employment with Respondent he took several qualifying tests to hold that position; that he consistently did better on these tests than numerous of Respondent's quality control inspectors; that during the course of his employment with Respondent, Complainant reviewed Respondent's welding procedures and documents;

that as a result of such review the Complainant found numerous situations where these procedures and documents did not comply with standard procedures and/or NRC rules and regulations; that the Complainant repeatedly reported these noncompliances to Respondent's management; that Complainant finally recommended that a stop work order be issued; that Respondent's management was very upset by this recommendation even though it eventually had to implement a large part of Complainant's recommendations; and that as a result of the Complainant's actions he was terminated by the Respondent on August 27, 1984.

The Respondent denies that the Complainant was discriminated or retaliated against in any manner.

The issue presented for resolution in this proceeding is: was Complainant discharged or otherwise discriminated against by Respondent in violation of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. § 5851, et seq.

A hearing on this matter was commenced on December 12, 1984, in Cincinnati, Ohio. Administrative Law Judge's Exhibits 1-3, Complainant's Exhibits 1-41 and Respondent's Exhibits 1-17 were admitted into evidence without objection. During a recess after the close of the Complainant's case, the parties indicated that they would like additional time to discuss settlement. This request was granted. When the hearing was reconvened, the parties indicated that a settlement had been reached. Therefore, a motion was made to continue the hearing in order to permit the parties an opportunity to prepare a settlement agreement. After hearing the proposed terms of the settlement, I granted the joint motion of the parties.

On December 26, 1984, the Complainant, by and through his counsel, has moved that this case be dismissed, with prejudice.

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In support of his motion, Complainant states that the parties have entered into and properly executed a Settlement Agreement, Release And waiver, dated December 26, 1984, which disposes of this matter in its entirety.¹

Accordingly, IT IS ORDERED that:

1. The request for hearing in this matter is hereby cancelled;
2. The Settlement Agreement, Release and Waiver is hereby approved and shall be binding on the parties with the same force and effect as would an order issued pursuant to adjudication upon the merits; and,
3. The complaint in this matter is hereby dismissed, with prejudice.

PARLEN L. MCKENNA
Administrative Law Judge

Dated: January 11, 1985

[ENDNOTES]

¹ The parties requested that the terms of the settlement agreement not be included in this order.